REMARKS

This is in response to the Office Action mailed June 11, 2003. In the Office Action, claims 1-60 were rejected under 35 USC 102(a) and (e). Reexamination and reconsideration of this case is respectfully requested in view of the foregoing amendments and the following remarks.

In this response, claims 13-14 have been amended. No claim has been cancelled nor has any claim been added. Claims 1-60 remain at issue in the patent application. Applicant believes that no new matter has been added by this response.

I. Claim Amendments

Applicant has amended dependent claims 13 and 14 to correct their dependency from "claim 8" to --claim 12--. This amendment to these claims is not made for reasons related to patentability.

II. Claim Rejections Under 35 U.S.C. § 102

Claims 1-60 were rejected under 35 U.S.C. §102(a) and (e) as being anticipated by U.S. Patent No. 6,504,963 issued to Fang, et al. (Fang). Applicant respectfully traverses.

"To anticipate a claim, the reference must teach every element of the claim. 'A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. V. Union Oil co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... 'The identical invention must be shown in as complete detail as is contained in the claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)." [MPEP § 2131, 8th Edition, Rev. 1, Feb. 2003, Pg. 2100-70].

The Office Action alleges that Fang teaches "a connection protection mechanism (and method for using same) for an optical cross-connect switch comprising: an optical cross-connect switch 100 to couple to client equipment wherein the optical cross-connect switch is bi-directional and includes both working and protection ports W1P1, W2,P2..ect. connected to client equipment with the client equipment including at least a pair of working links and/or protection links wherein a testing signal or tone can be used to indicate connection failure and re-route around the failure with the client equipment including optical wavelength multiplexers/demultiplexers, SONET, add/drop devices, routers, etc. with the client including optoelectronic detecting means and I/O ports, which clearly, fully meets Applicant's

claimed limitations." [Office Action, Pages 2-3]. Applicant respectfully disagrees.

Applicant respectfully submits that Fang at least does not disclose a signaling channel as recited in Applicants claims. A "testing signal or tone" does not disclose a signaling channel. Moreover, Fang does not disclose a testing signal or tone "to indicate connection failure" as alleged by the Office Action. Fang's disclosed testing signal or tone seems to be used to detect a connection failure and not to signal to other equipment that a connection failure has occurred.

That is, Applicant respectfully submits that Fang does not disclose "a signaling channel to transport a connection failure signal indicating if one working port of the one or more working ports has a connection failure in its working link or the one working port coupling to the client equipment" as recited in independent claim 1. [Claim 1, lines 15-18]. Nor does Fang disclose "signaling the optical cross-connect switch or the client of the connection failure in response to detecting the connection failure" as recited in independent claim 18. [Claim 18, lines 7-9]. Nor does Fang disclose "signaling the optical cross-connect switch or the client of the connection failure in response to detecting the connection failure" as recited in independent claim 18. [Claim 18, lines 7-9]. Nor does Fang disclose "an out of band signaling channel to transmit a

connection failure signal in response to the sensor detecting a connection failure in a working link from the client equipment to the optical cross-connect switch" as recited in dependent claim 39. [Claim 39, lines 3-6]. Nor does Fang disclose "an out-of-band signaling channel between the client equipment and the optical cross-connect switch, the out-of-band signaling channel to transmit a connection failure signal in response to detection of a connection failure in the working links between the client equipment and the optical cross-connect switch" as recited in dependent claim 48. [Claim 48, lines 3-8]. Nor does Fang disclose "one or more in-band signaling channels between the client equipment and the optical cross-connect switch, the one or more in-band signaling channels to transmit a connection failure signal in response to detection of a connection failure in the working links between the client equipment and the optical cross-connect switch" as recited in dependent claim 51. [Claim 51, lines 3-8]. Nor does Fang disclose optical network equipment including "a signaling channel to transmit and receive a connection failure signal indicating if one working port of the one or more working ports has a connection failure in a working link or a working port coupling to the client equipment" as recited in independent claim 59. [Claim 59, lines 15-19].

Moreover, Applicant respectfully submits that Fang further does not disclose a protection port included in an optical cross

connect switch as recited in Applicant's claims. Fang's cross-connect switches 920 and 950 disclosed in Fang's Figures 13 and 14, respectively, do not disclose a protection port in case the cross connect switch 920 and 950 has a failure. Fang generally discloses an optical fiber protection switch 100 (see Fang's Figure 11) for a bidirectional line switch ring (BLSR) (see Fang's Figure 2) in the case that a fiber bundle or a working fiber in the BLSR is cut as illustrated in Fang's Figures 3 and 4. As illustrated by Fang's Figures 11, 13, and 14, the optical fiber protection switch 100 is not a part of either of Fang's cross connect switches 920 and 950. Fang's optical fiber protection switch 100 does not expect a failure in either cross-connect switch 920 and 950; between the cross-connect switch 920,950 and Fang's optical fiber protection switch 100; or between the cross-connect switch 920,950 and the gateway access 925.

That is, Applicant respectfully submits that Fang does not disclose an optical cross connect switch including "a protection port to couple to the client equipment using a pair of protection links" as recited in independent claim 1. [Claim 1, lines 12-13]. Nor does Fang disclose "switching to a pair of protection links between the optical cross-connect switch and the client from the pair of working links having the connection failure" as recited in independent claim 18. [Claim 18, lines

10-12]. Nor does Fang disclose "switching to a pair of protection links between the optical cross-connect switch and the client from the pair of working links having the connection failure" as recited in independent claim 18. [Claim 18, lines 10-12]. Nor does Fang disclose "M protection port cards for every N I/O port cards of the one or more I/O port cards, the M protection port cards to couple to the client equipment using protection optical links" as recited in independent claim 29. [Claim 29, lines 8-11]. Nor does Fang disclose "at least one pair of optical links coupled between the optical cross-connect switch and the client equipment as protection links over which optical signals can atypically propagate in the event of a connection failure" as recited in independent claim 44. [Claim 44, lines 9-13]. Nor does Fang disclose "a protection port to couple to the client equipment using a pair of protection links" as recited in independent claim 59. [Claim 59, lines 12-13].

Thus for the foregoing reasons, Applicant respectfully submits that independent claims 1, 18, 29, 44, and 59, as well as dependent claims 39, 48, and 51, are not anticipated by Fang.

Additionally, dependent claims 2-17, 19-28, 30-43, 45-58, and 60 are directly or indirectly dependent from independent claims 1, 18, 29, 44, and 59. Applicant believes that independent claims 1, 18, 29, 44, and 59 are now in condition for allowance such that dependent claims depending respectively

there-from are also in condition for allowance. Thus, Applicant respectfully submits that dependent claims 2-17, 19-28, 30-43, 45-58, and 60 are also in further condition for allowance.

Applicant respectfully requests that the 35 U.S.C. 102(a) and 102(e) rejections of claims 1-60 over Fang be withdrawn.

CONCLUSION

In view of the foregoing it is submitted that the claims are in condition for allowance. Reconsideration of the rejections are requested. Allowance of the claims at an early date is solicited.

The Examiner is invited to contact Applicant's undersigned counsel by telephone at (714) 557-3800 to expedite the prosecution of this case should there be any unresolved matters remaining. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such deposit account.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: November 5, 2003

WILLIAM E. ALFORD
Reg. No. 37,764

12400 Wilshire Boulevard,
Seventh Floor
Los Angeles, California 90025
(714) 557-3800

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Susan McFarlane 11/5/03
Susan McFarlane *Date*